

**INTERNAL REVENUE SERVICE**

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Dear [REDACTED]:

This letter is in response to your April 4, 2001 inquiry to Floyd Williams, Director, Legislative Affairs, on behalf of your constituent, [REDACTED]. He read an article stating convenience stores are depreciated over 15 years instead of the much longer depreciation period for other commercial buildings. [REDACTED] asked when this treatment became available for convenience stores.

To use the 15-year depreciation period, the convenience stores must qualify as retail motor fuels outlets. Property will qualify as a retail motor fuels outlet, whether or not food or other convenience items are sold at the outlet, if: 50 percent or more of its gross revenues are from petroleum sales, or 50 percent or more of the floor space in the property is devoted to petroleum marketing sales. A motor fuels outlet of 1400 square feet or less qualifies as a retail motor fuels outlet without applying either 50 percent test. Any convenience store that is not considered a retail motor fuels outlet must be depreciated over 39 years, the period that applies to other commercial buildings.

The 15-year depreciation period for property that is a retail motor fuels outlet was provided by section 1120 of the Small Business Job Protection Act of 1996 (the Act), P.L. 104-188. This depreciation period is the same as the depreciation period for service station buildings used to market petroleum and petroleum products.

The Act only applies to property placed in service on or after August 20, 1996. However, the Act also provides that a taxpayer may elect to apply the 15-year depreciation period by following Revenue Procedure 97-10, 1997-1 C.B. 628. The election is irrevocable and is treated as a change in the taxpayer's method of accounting that requires the consent of the IRS. Generally, the taxpayer had to file this election with his or her timely filed tax return for the 1996 tax year.

I hope this letter answers your questions. For your reference, I have enclosed a copy of your letter. If I can be of further assistance, please contact me or [REDACTED] at [REDACTED].

Sincerely,  
Charles B. Ramsey  
Chief, Branch 6  
Office of Associate Chief Counsel  
(Passthroughs and Special Industries)

Enclosure